



Problem of Succession Conflicts in Kisangani in the DRC Analysis of the Causes, Consequences and Proposed Solutions

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ABSTRACT

In the city of Kisangani in the Democratic Republic of Congo, succession disputes are one of the causes of disagreement between the heirs. The diagnosis proves that there are several causes and consequences at the root of succession disputes.

This note questions the factors that are at the root of succession conflicts. It not only explains but also restores the heirs to their rights and tries to identify the causes and consequences of inheritance disputes in order to propose possible solutions.

Keyword: Kisangani, succession disputes, disagreement, heirs.

I. INTRODUCTION

I.1.CONTEXT OF THE STUDY

In Kisangani, there have been too many inheritance conflicts over the past ten years, of which the heirs are often victims.

However, the DRC has long since adopted a family code, the respect of which could sometimes reduce these succession disputes. Moreover, in terms of conflicts in this case, judgment is the essential bulwark.

The constitution gives it full independence; in fact, "judges are subject in the exercise of their function only to the authority of the law" ¹

Major ideas

- The city of Kisangani in the DRC, there have been too many succession conflicts in recent years;
- The causes and consequences of inheritance disputes are: poor distribution of property, marginalization of the heirs and the widow by her children, absence of a will, lack of quality of enjoyment of the deceased's property, bequest by will of the plot to only one child of the 2nd wife and separation of the heirs, lack of love between the heirs, murder and disappearance. However, strict compliance with the family code is inevitable;
- This leads us to believe that there are factors that lead to these succession conflicts and that are analysed in this text.

I.2.PROBLEM

The issue of succession conflicts in the city of Kisangani raises the following questions:

- Why the proliferation of succession conflicts in the city of Kisangani?
- What are the causes and consequences of inheritance disputes in the said city?
- How to resolve these succession conflicts in the city of Kisangani?

I.3.METHODOLOGICAL INSTRUMENTS

To ensure the collection of the data that contributed to the writing of this article, we have used, on the one hand, the legal method, the interview and the documentary technique and, on the other hand, data collection. In addition to the legal method,² this has enabled us to analyse the various texts of the laws and other legal documents relating to our research theme in order to achieve the assigned objective. And which, according to J.L. BERGEL, is "The study of the procedures and methods that jurists are led to practice in their activity of research, creation and application of law and, more generally, to arrive at the solution of legal problems. The interview allowed us, on the basis of the oral questionnaire³, to interview certain people in inheritance disputes as well as certain lawyers in order to gather opinions on their experience, observations and lessons learned;

The documentary technique allowed us to consult archives, books, journal articles and others written documents that contain information relevant to our research.

I.4.SUBDIVISION OF LABOUR

Beyond the introduction and conclusion, this note is subdivided into three titles. The first title offers a global understanding of the environment of our study. The second title is intended to be the causes and consequences of succession conflicts, which are enormous in the city of Kisangani. The last title focuses on the question of the consequences of succession conflicts in the city of Kisangani.

II.PRESENTATION OF THE STUDY ENVIRONMENT

This research was carried out in the city of Kisangani. Hence the need to introduce our readers to this city with a view to allow for a good understanding of the research study environment.

II.1.LOCATION

The capital of the former Oriental Province and the new province of Tshopo, the city of Kisangani, 1700 kilometers from Kinshasa, the capital of the DRC, on the Congo River. It is located in the northeastern part of this country. 1Precisely at 0°31' from the longitude of the Green Wich meridian and 396 m above sea level. 2

This city is ranked third in the DRC after Kinshasa and Lubumbashi respectively. It is crossed on both sides by the Congo River. It is also watered by the Tshopo River, on which a hydroelectric dam supplying the city is erected. It has an international airport (Bangboka) and another of national scope but serving as a base for the air force.

It has a river port (ONATRA) and is the terminus of the Kinshasa-Kisangani navigable reach. It is also the starting point of the railway that connects Lubumbashi via the Province of Maniema. 3

It is bounded:

- To the north by the Territory of Banalia;
- To the south by the territories of Ubundu and Opala ;
- To the east by the Territory of Bafwasende ;
- And to the west by the Territory of Isangi.

II.2.HISTORY

The milestone for the creation of the city of Kisangani was set in 1876. This date marks the arrival of Henri Morton Stanley, an English exploiter, at the cataracts of the Congo River, what is now called " Wagenia Falls".

After his arrival in the city of Kisangani, he created on December 3, 1883, the post called Stanleyfalls. 4 The post of Falls became the district of cataracts by the decree of the King of the Belgians, Leopold II of August 1, 1886. At that time, this city was attached to the Territory of Kisangani, from which he was detached in 1887.

Kisangani, then Stanley City, was confirmed as the capital of the Oriental Province, without however be a legal personality. The latter was conferred on him on 23 January 1911 by the Royal Decree.

In 1932, Stanley City became an extra-customary center and divided at the time into indigenous neighborhoods and a urban center inhabited only by whites.

It was by the decree of 20 March 1957 on the status of cities and by Ordinance No. 12-137 of 6 September 1958 that the extra-customary centre of Kisangani became a city with a legal personality.

Four municipalities will structure this city, each of which will be led by a Mayor, and these are:

- Belgian I currently split into two communes: Mangobo and Tshopo;
- Belgian II, now Lubunga;
- Brussels, which became Kabondo;
- And Stanley, the seat of administration, currently Makiso.

In addition to these communes, the commune of Kisangani was added after the country's independence in 1960. This commune was born from the merger of the Wagenia and Arabized (Wangwana) chiefdoms.

This structure remained until 1968 before being modified by ministerial decree n°06-082 of 8 May 1969. From then on, the Belgian commune was divided into two distinct communes, Mangobo and Tshopo.

The names of these communes changed in 1971 with the implementation of the new policy advocated by Mobutu, " Recourse to authenticity ". To this end, all the names reminiscent of colonization were changed.

From then on Kisangani, Stanley city became an urban sub-region composed of six communes Kabondo, Mangobo, Tshopo, Makiso, Kisangani and Lubunga by Ordinance No. 17-028 of 19 November 1977. Each commune was divided into neighbourhoods and the latter into blocks or avenues, which remains in force until today.

It should be noted that the city of Kisangani has been annexed to the Lubuya-Bera sector.

1.1.3. ORGANISATION POLITICO-ADMINISTRATIVE

The city of Kisangani is the seat of the provincial institutions. 1The main political institutions established in

Kisangani are the Provincial Assembly and the Provincial Government.

The powers of the two institutions are set out in Article 6 of Law No. 08/012 of 31 July 2008 on the fundamental principles relating to the free administration of the provinces. The competences and powers of these two institutions are clearly defined in order to avoid any overlap².

It should be recalled that it was by Ordinance-Law No. 12/351 of 6 September 1958 of the Governor-General that Kisangani received the status of a city in the agglomeration of Stanley City, which became Kisangani in 1965. As in the rest of the country's city, the political-administrative organization of the city of Kisangani falls within the framework of the provisions of Ordinance-Law No. 82/006 of 25 January 1982 on the territorial, political and administrative organization of the Republic of Zaire. ³

By decree of 26 March 1957, as amended and supplemented by Ordinance-Law No. 77/028 of 19 November 1977 and 82/006 of 25 January 1982, the city of Kisangani has legal personality and is a decentralized administrative entity. ⁴

The city of Kisangani is made up of six (6) subdivided communes and the Lubuya-bera sector. These communes are as follows:

- The municipality of Makiso: it includes six districts: commercial district, Tshatshi district; Plateau Boyoma district, Plateau Medical district, Lualaba district and Musicians district;
- The commune of Mangobo: the commune of Mangobo comprises ten districts: Aruwimie district, Elima district, Imbolo district, Itimbiri district, Limanga district, Lindi district, Minzoto district, Okapi district, Rwenzorie district and Ségama district;
- The municipality of Lubunga: the municipality of Lubunga includes twelve districts: Basoko district, Batiangubu-lua district, Buta district, Kasai district, Kolwezi district, Lokele district, Lukwa-osio district, Maniema district, Salumu district, Wagenia district, Opala district and Yalisombo district;
- The commune of Kisangani: it includes seven districts: Kisangani district, Place du 15 mars district, Ile mbiye, Kilanga, Maleke and Bangboka;
- The commune of Kabondo: it has twenty districts, namely : ANC, Maniema, N'sele, Batama, Ibamba, Bekenyi, Kibali, Fataki, Bandundu, Masimango, Bkasu, Tshopo, Mosibasiba, Lokutu, Kasai, Basakata, Tshuapa, Monga, Renzori and Ituri;
- The commune of Tshopo: it includes twelve districts: stadium, post office, Uélé, school, Lubumbashi, Aruwimi, Market, Pumuzika, Kandola and Zoo District.

II.4.DEMOGRAPHICS

Kisangani is a real melting pot. However, it brings together various social strata of the Democratic Republic of Congo and foreigners who stay there for several reasons.

History informs us that the construction of this city is based on successive waves of migration of different peoples. Among the latter, there are Arab and Arabized orientals, residents of the country, Natives, ethnic groups from Ecuador, the East, and the North-East of the country or Kasai.

These waves have each left their mark on the social configuration of this city, which means that the city is multi-ethnic and the spatial distribution of its population obeys a logic of grouping by community of origin and according to the routes of access to the city.

In the city of Kisangani, it is quite difficult to claim a majority within the communities living in the city of Kisangani. However, it emerges that the Lokele constitute a relative superiority with 15.4% over the other local tribes.

II.5.ECONOMIC DIMENSION

II.5.1.From an infrastructural point of view

The city of Kisangani is made up of a road network constituting the urban road. This road network makes it possible to

the movement of goods from one area to another, imports and exports. The city of Kisangani, as already indicated, has an international airport and another airstrip located in Simi-Simi. The railway located in Lubunga is in a dilapidated state.

II.5.2.Industrial sector

The city of Kisangani has a few textile, metallurgical, hydroelectric and brewing industries. Indeed, the national electricity company has a power plant on the Tshopo River, but only one turbine out of the three that the dam has is working; with the consequence of load shedding.

The Kisangani textile company (SOTEXKI) produces fabrics and makes clothes, but it is experiencing enormous difficulties in the supply of cotton due to poor road conditions. Bralima produces soft drinks and alcoholic beverages. Régideso treats raw water and provides drinking water to the population. The Société de Gestion, de Gérance et d'Investissement (Sorgérie) has been in a state of shutdown since the beginning of the war. It produced soap, vegetable oil and other cosmetic products. The Compagnie Forestière de Transformation (CFT) and Bego-Congo cut, process and export the wood.

The informal sector is also highly developed in artisanal production and brickworks (manufacture of bricks in cult clay).

All these industries are struggling to function because of the obsolescence of the equipment, the sources of supply and the electrical problems that the city is experiencing. Most of them operate thanks to electrical groups.

II.5.3.Natural Resources

Some sources inform that the city of Kisangani is rich in diamonds and gold; 1 but not exploited. As a result, the diamond sold in the city's trading posts comes from Banalia, Bafwasende, Opala and ISANGI.

Food products come from the surrounding villages whose main activities are agriculture and cattle breeding . Kisangani is also famous for its famous " Kosa Kosa ", large shrimps eaten in all the major cities of the DRC and mainly in Kinshasa.

Most of the manufactured goods come from neighbouring provinces, mainly from Kinshasa and the East of the Country.

II.5.4.Tourism sector

Several tourist activities are present in the city of Kisangani. These are, for the most part, abandoned tourist infrastructures; among others. 2

- The WAGENIA fishing fall;
- Stanley standpipe;
- Dam and fall of the Tshopo;
- Zoological garden and its beach;
- Martyrs' Square;
- The cemetery of the white pioneers during colonization;
- The graves of the Arabized pioneer chiefs (Mabe SABITI) in the commune of Kisangani;
- Djuba-djuba market (floating villages);
- At the kilometre point (PK5), there is the Bahindi cemetery;
- Kisangani City Hall;
- In simi-simi, the tomb of Monseigneur Grison;
- Faculty of Sciences of the University of Kisangani;
- Faculty Institute of Agricultural Sciences, IFA/YANGAMBI;
- The tomb of Monsignor Fataki.

Beyond the tourist sites, the city of Kisangani has a wide range of tourist establishments, namely hotels, restaurants and refreshment stands, in this case the Ruwenzori Hotel, Riviera, Palm Beach, Ramela, La Cruche, the Raman Club, Ruwenzori, Guest House du Canon, Full Business...

III.SUCCESSION DISPUTES IN THE CITY OF KISANGANI

III.1.BREVET PRESENTATION OF THE CITY OF KISANGANI

Kisangani is the third largest city in the DRC located in the north-east of the country. Formerly Stanley City, it is a real relay city between the East and the West of the country; the North and the South. This position has given it an important role throughout the history of the Democratic Republic of Congo. 1

Kisangani has experienced inheritance conflicts in several families, caused by disagreements between the heirs themselves. However, these conflicts with harmful consequences are based on the distribution of the property left by the deceased father, whereas the heirs should live in harmony in their family.

III.2.PRESENTATION AND ANALYSIS OF DATA FROM LAWYERS

III.2.1.Socio-demographic characteristics of the respondents

III.2.1.1.Gender

Table 1. Distribution of respondents by sex

No.	Gender	Frequency	Percentage
1	Male	27	90
2	Female	3	10
	Total	30	100

Source : Our field survey.

Table 1 shows that the majority of respondents, i.e. 90%, are male.

III.2.1.2.Age

Table 2. Distribution of respondents by age

No.	Age groups	Frequencies	Percentage
1	≤30	3	10
2	31-40	12	40
3	41-50	13	43,3
4	51-60	1	3,3
5	61 and over	1	3,3
	Total	30	100

Source : Our field survey.

A reading of the data in Table 2 shows that the majority of respondents, 83.3%, are aged between 31 and 50.

Municipality of Residence

Table 3. Distribution of respondents by commune of residence

No.	Municipality of residence	Frequency	Percentage
1	Kabondo	2	6,7
2	Kisangani	3	10
3	Lubunga	0	0
4	Makiso	16	53,3
5	Mangobo	2	6,7
6	Tshopo	7	2,3
	Total	30	100

Source : Our field survey.

It emerges from Table 3 that most of the subjects, i.e. 53.3%, are from the commune of Makiso. By against, no subject is from the Lubunga commune.

III.2.1.3.Level of education

Table 4. Distribution of subjects by level of education

No.	Level of education	Frequency	Percentage
1	Licensee	29	96,7
2	OF	1	3,3
3	PhD thesis	0	0
	Total	30	100

Source : Our field survey.

The data in this table reveal that the majority of the subjects, i.e. 96.7%, are licensees.

III.3.PROBLEM OF INHERITANCE DISPUTES

III.3.1.Defence before the High Court of Kisangani of a case related to the conflicts of succession

All subjects (100%) said that they had defended cases related to inheritance conflicts before the Kisangani High Court.

III.3.1.1.Victims or Complainants

Table 4. Respondents' opinions on complainants

No.	Topic Responses	Frequency	Percentage
1	Children	20	50

2	Children and widow	10	25
3	Widow	8	20
4	Paternal aunt	1	2,5
5	Liquidator	1	2,5
	Total	40	100

Source : Our field survey.

It follows from Table 4 that the main complainants are the children (50%), followed by the children and widow (25%) and the widow (20%).

These three groups of complainants alone account for 95% of cases.

III.3.1.2. Causes of inheritance disputes

Table 5. Respondents' opinions on the causes of inheritance disputes

No.	Topic Responses	Frequency	Percentage
1	Improper distribution of assets	24	48
2	Marginalization of heirs	12	24
3	Absence of a will	6	12
4	Marginalization of the widow by her children	3	6
5	Lack of quality of enjoyment of the deceased's senses	3	6
6	Bequest by will of the plot to a single child of the 2nd wife	2	4
	Total	50	100

Source : Our field survey.

It emerges from this table that the causes of inheritance disputes are ranked in the following order : the poor distribution of property (48%); the marginalization of heirs (24%); the absence of a will (12%); the marginalization of the widow by her children (6%); the lack of quality of enjoyment of the deceased's property (6%) and the bequest by will of the plot to a single child of the 2nd wife (4%).

III.3.1.3. Successful case before the High Court of Kisangani

It should be noted that 26 subjects, or 86.7%, said they had won the case against 4 subjects, or 13.3% who said that the cases were still pending.

III.3.1.4. Rehabilitation of heirs in their rights

Our analyses showed that 86.7% of the subjects affirmed that the heirs had been rehabilitated in their rights; while 13.3% of the subjects affirmed that the cases are still pending.

III.3.1.5. Respondents' wishes to put an end to succession conflicts in the city of Kisangani Table 6.

Respondents' opinions on the end of succession conflicts in the city of Kisangani

No.	Topic Responses	Frequency	percent
1	Preparing the Will	21	42
2	Popularization of the Family Code	15	30
3	Equitable division of property	11	22
4	Regularization of marriage property	3	6
	Total	50	100

Source : Our field survey.

A reading of the data in this table shows that the wishes expressed by the respondents to put an end to inheritance conflicts in the city of Kisangani are divided into 4 thematic units; in particular the preparation of the will (42%); the popularization of the family code (30%); the equitable distribution of property (22%) and the regularization of marriage property (6%).

III.3.2. The consequences of succession conflicts in the city of Kisangani

When analysing the consequences of succession conflicts, it is clear that they are often negative and create the following:

- Separation;
- The lack of love ;
- The Assassination ;
- Disappearance.

III.3.2.1. Separation of heirs

In our study, it will be impossible for us to speak of the word "Separation" without defining it.

Thus, the word " separation " is an action or fact of moving away from or being distant from someone. This word comes from the verb to separate in turn means to separate that which was united¹.

In the context of our study, separation is understood here as a separation of children or heirs from each other without the latter being in collaboration, particularly between brothers and sisters. The observation made is that the heirs no longer have trust among themselves, they no longer have respect for the surviving spouse because of the property left by their late father. This way of living in separation between heirs of all categories often generates desolation and total panic in the said family.

Indeed, the consequences of the inheritance conflicts that we are referring to here do not promote good cohesion between the different heirs depending on whether they are their respective categories, and cause there to be no more fraternal love or between the surviving spouse and the parents of the deceased, etc.

III.3.2.2.Lack of love

Before addressing this problem of lack of love, we begin by defining it: the word " Lack " means a defect or an absence¹. Whereas the word " Love " which means an impulse of the heart, a connection, a passion, the love of freedom².

In the context of our study, the lack of love between heirs who were born in the same family or in different categories of groups is always hatred, jealousy and mistrust that reigns between these heirs.

Nevertheless, the lack of love leads to enormous disagreement to the point that they can no longer speak the same language as they had grown up together despite being the children of the same father and mother.

It should be noted that the lack of love between brothers and sisters, children with the wife of their deceased father and the parents of the deceased, is one of the most serious consequences of inheritance disputes. And yet, in principle, the word family, according to its definition, is composed of the father, the mother and the children. Thus, when there is no longer any love between the heirs of all categories because of the property left by the deceased, this would normally risk having harmful consequences; in particular, the evil intention to attack others, which will incite the latter to kill each other and to resort to witchcraft.

III.3.2.3.The assassination

Assassination is murder, killing.

Assassin comes from the verb Assassiner means to kill. Assassin is therefore synonymous with Killer, murderer³.

Indeed, inheritance disputes are topical issues, and have dramatic consequences throughout the country in general, and in the city of Kisangani in particular. However, all the consequences of these conflicts almost

always lead to unfortunate events when the children or heirs have not agreed, particularly on the division of property in accordance with the family code.

The problem of the consequences of inheritance conflicts often leads to witchcraft, violence between heirs of all categories, and sometimes causes the death of some. This is what leads to the disappearance of the family.

III.3.2.4. The disappearance

As we defined above, the word family is the composition of the father, the mother and the children⁴. Normally, when a family is torn apart because of inheritance disputes, this family creates frustration on the part of the family, to the point that it can disappear from generation to generation.

III.3.3. Jurisdictional issue

When there are inheritance disputes, the question of the jurisdiction of the succession is a matter for the courts and tribunals.

III.3.3.1. The jurisdiction of the courts

In the Democratic Republic of Congo (DRC), all inheritance disputes are under the jurisdiction of the Tribunal de paix (TRIPAIX) when the inheritance does not exceed 1,25,000 Congolese francs; and that of the Tribunal de Grande Instance (TGI) when it exceeds this amount. The amount is established on the basis of the gross assets. However, as soon as the jurisdiction of the Tribunal is established to hear an inheritance, it remains competent to hear any dispute relating to this inheritance. ⁵

III.3.3.2. Poor popularization of the family code

In terms of succession, the DRC is governed by the law, n°016, but the popularization of this text is sorely lacking.

The Constitution of the DRC has been content to criminalize ignorance of the texts of the law in order to promote the conditions for the sensitization of the population to appropriate these texts.

The provisions of Article 62 of Law No. 11/002 of 20 January 2011 amending certain articles of the Constitution of the DRC of 18 February 2006 rather condemned ignorance of the law postulant : " No one is obliged to respect the Constitution and to conform to the laws of the Republic¹".

This is a flagrant deviation insofar as many Congolese do not have the culture of reading. This is how someone said : "If you want to hide the truth from the Congolese, you must put it in writing"

In this regard, the Congolese State should fully assume its responsibility to create an ideal framework for the popularization of the family code. This is not the case. It is enough only to rub shoulders with one family in the city of Kisangani, and you will have noticed that the majority of families do not know the prescriptions of the Family Code.

CONCLUSION

Succession conflicts are the causes of disagreements in the world, particularly in the DRC, we are interested in the city of Kisangani, which we have been researching since 2011.

This article has sought to analyse the factors that are at the root of succession conflicts. It has also attempted to

to explain, but also to restore the heirs to their rights.

In conclusion, it should be stressed that the causes and consequences of the conflicts are: poor distribution of property, marginalization of the heirs and the widow by her children, lack of will, lack of quality of enjoyment of the deceased's property, bequests by will of the plot to only one child of the 2nd wife. And as consequences the separation of the heirs, the lack of love between the heirs, murder and disappearance.

As far as the question of jurisdiction is concerned, only the judge is supposed to rule on the law and with impartiality.

Finally, most families are unaware of the Family Code, without knowing that they must stick to the strict compliance with relevant legislation.

In light of the above, as possible solutions, we make the following recommendations:

- Preparing wills;
- That the Family Code be the subject of regular popularization among different families. In this respect , small illustrated brochures should be distributed to the various families;
- Bidding and sequestration in the event of inheritance disputes.

Footnotes

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17. Dictionnaire Larousse de Français, éd., 2008 P.26 et 257
18. Idem P.26
19. Dictionnaire Larousse de Français, éd., 2008 P.125
20. La Loi n°16/008 du 15 juillet 2016 modifiant et complétant la loi n°87-010 du 1er Août 1987 portant code de la famille dans son article 817, p.55.
21. La loi n°16/008 du 15 juillet 2016 modifiant et complétant la loi n°87-010 du 1er Août 1987 portant code de la famille.

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